

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JAMES KNAPP, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

ART.COM, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: CV-16-00768-WHO

[Hon. William H. Orrick]

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 Plaintiff James Knapp's Unopposed Motion for Preliminary Approval of Class Action
2 Settlement came before this Court on April 12, 2017. The Court, having considered the
3 proposed Settlement Agreement and the exhibits attached thereto (hereafter, collectively, the
4 "Settlement Agreement"), having considered the Motion and supporting documents, and good
5 cause appearing, HEREBY ORDERS AS FOLLOWS:

6 1. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court grants
7 preliminary approval of the Settlement as set forth in the Settlement Agreement, solely for the
8 purposes of implementing the Parties' Settlement Agreement, and finds the terms to be within
9 the range of reasonableness of a settlement that ultimately could be granted approval by the
10 Court at the final Fairness Hearing. The Settlement Agreement is the result of arm's-length
11 negotiations between experienced attorneys who are familiar with class action litigation in
12 general and with the specific legal and factual issues in this case. The Court has considered the
13 alleged merit of Plaintiff's claims, Defendant Art.com, Inc.'s potential liability, the procedural
14 status of the case, the allocation of Settlement proceeds among Class Members, and the fact that
15 the Settlement represents a compromise of the Parties' respective positions.

16 2. This Order ("Preliminary Approval Order") hereby incorporates by reference the
17 definitions in the Settlement Agreement, and all terms herein shall have the same meaning as set
18 forth in the Settlement Agreement.

19 3. The Court grants preliminary approval of the Settlement based on the terms set
20 forth in the Settlement Agreement and preliminarily finds that the Settlement is fair, adequate,
21 and reasonable to the Class Members.

22 4. The Court hereby certifies, for purposes of settlement only, the following class
23 (the "Class"):

24 All persons, who between February 12, 2012, to June 9, 2016, purchased any product
25 from Art.com through the e-commerce websites www.art.com, www.posters.com, and/or
26 www.allposters.com, pursuant to a site-wide, all products sale by entering a coupon
code, and whose product was shipped to an address in the United States.

27 Excluded from this definition are the following individuals and/or entities: Art.com and
28 its parents, subsidiaries, affiliates, officers and directors, current or former employees,
and any entity in which Art.com has a controlling interest; all individuals who make a

1 timely election to be excluded from this proceeding using the correct protocol for opting
2 out; and all judges assigned to any aspect of this litigation, as well as their immediate
3 family members.

4 5. The Court finds, for purposes of settlement only, that the Class meets the
5 requirements for certification under Federal Rules of Civil Procedure Rule 23 in that: (1) the
6 Class is so numerous that joinder of all members is impractical; (2) there are questions of law
7 and fact that are common to the Class which predominate over individual issues; (3) Plaintiff's
8 claims are typical of the claims of the Class; (4) Plaintiff and his counsel will fairly and
9 adequately protect the interests of the Class; and (5) a class action is superior to other available
10 methods for the fair and efficient adjudication of the controversy.

11 6. Plaintiff James Knapp is conditionally approved as the Class representative.

12 7. Schneider Wallace Cottrell Konecky & Wotkyns LLP and the Wand Law Firm
13 are conditionally approved as Class Counsel.

14 8. The Court approves of Heffler Claims Group as the Settlement Administrator.

15 9. The Court approves as to form and content the Notice of Class Settlement
16 ("Notice") attached as Exhibit A to the Settlement Agreement.

17 10. The Court hereby authorizes the Settlement Administrator to send notice to Class
18 Members as set forth in the Settlement Agreement.

19 11. The Court finds that method of providing notice to the Class as set forth in the
20 Settlement and this Preliminary Approval Order meets the requirements of due process,
21 provides the best notice practicable to Class Members under the circumstances, and constitutes
22 due and sufficient notice to all Class Members of the Settlement and their rights related thereto.

23 12. Class Counsel shall serve and file a motion for final approval of the Settlement
24 and a motion for the award of attorneys' fees and litigation costs provided for in the Settlement
25 by the deadline set forth below.

26 13. A hearing to determine whether the Settlement is fair, reasonable and adequate to
27 the members of the Settlement Class and whether the Settlement should be finally approved will
28 be held no less than 105 days after entry of this Preliminary Approval Order, namely on

1 **August 9, 2017 at 2:00 p.m.**, in Courtroom 2 of the United States District Court for the
2 Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California
3 94102 (“Final Approval Hearing”). The Court may adjourn or continue the date of the Final
4 Approval Hearing without further notice to Class Members, and retains jurisdiction to consider
5 all further applications or motions arising out of or connected with the Settlement.

6 14. Any Class Member or other person may appear and show cause, if he or she has
7 any, as to why the Settlement of the Class Action should or should not be approved as fair,
8 reasonable and adequate, or why the Final Order and Judgment should or should not be entered;
9 provided, however, that no Class Member or other person shall be heard or entitled to object to
10 the approval of the terms and conditions of the Settlement, or, if approved, the Final Order and
11 Judgment to be entered thereon approving the same, unless the Class Member or other person
12 has filed his or her Notice of Objection and/or brief with the Clerk of this Court, in accordance
13 with the instructions and deadline specified in the Class Notice and in this Preliminary Approval
14 Order.

15 15. Any Class Member or other person who does not file a Notice of Objection in the
16 manner provided for in this Preliminary Approval Order and the Class Notice shall be deemed
17 to have waived any objections and shall forever be foreclosed from making any objection to or
18 from taking any appeal from any determination regarding the fairness, reasonableness or
19 adequacy of the Settlement, and all terms therein, or the Final Order and Judgment.

20 16. Class Members who wish to opt out of or exclude themselves from the Class
21 Action and, in turn, the Settlement, must do so in accordance with the instructions and deadline
22 specified in the Class Notice and in this Preliminary Approval Order.

23 17. Class Members shall continue to be bound by all determinations of the Court,
24 and by the Settlement, whether favorable or unfavorable, until such time as they properly opt
25 out of or exclude themselves from the Class Action, and, in turn, the Settlement, if at all.

26 18. The Court orders the Parties to carry out the Settlement according to its terms.

27 19. To the extent permitted by law, and pending a final determination as to whether
28 the Settlement should be approved, Class Members, whether directly, representatively, or in any

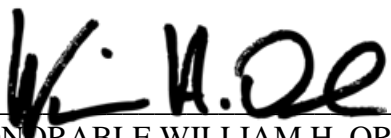
other capacity, and without regard as to whether or not such persons have appeared in the Class Action, shall not institute or prosecute any Released Claims against Defendant Art.com, Inc. or any of the other Released Parties.

20. The Court orders the following implementation schedule for further proceedings:

Deadline for Defendant to provide Class Information to Settlement Administrator	May 1, 2017 10 days after entry of Preliminary Approval Order
Deadline for Settlement Administrator to send Class Notice to Class Members and to make Settlement website	May 16, 2017 25 days after entry of Preliminary Approval Order
Deadline for Class Members to opt out of Settlement or serve and file written objections to Settlement ("Opt-Out and Objection Date")	July 16, 2017 60 days after the Class Notice is sent by the Settlement Administrator to Class Members
Deadline for Class Counsel to file Motion for Attorneys' Fees and Costs	July 2, 2017 14 days before Opt-Out and Objection Date
Deadline for Plaintiff to file Motion for Final Approval of Settlement of Class Action	July 26, 2017 10 days after Opt-Out and Objection Date
Deadline for Settlement Administrator to submit declaration to Court re. Class Notice	July 31, 2017 10 days before the Final Approval Hearing
Deadline for Settlement Administrator to submit declaration to Court affirming that Vouchers have been distributed	September 28, 2017 20 days after Vouchers have been distributed

IT IS SO ORDERED.

DATED: April 25, 2017


HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT COURT JUDGE